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Dan Kikinis

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EXAMINER

NGUYEN BA, HOANG VU A

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PAPER NUMBER

2421

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 09/854,334	Applicant(s) KIKINIS ET AL.	
	Examiner Hoang-Vu A. Nguyen-Ba	Art Unit 2421	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 November 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3, 5-12, 14-16, 18-25, 27-31 and 33-35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5-12, 14-16, 18-25, 27-31 and 33-35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. This action is responsive to amendment filed November 3, 2008.
2. Claims 1-3, 5, 7-12, 14-16, 18-25, 27-35 are pending. Claims 1, 12 and 23 are independent claims.

Response to Amendments

3. Per Applicants' request, Claims 1, 5, 12, 14-16, 23, 27 and 31 have been amended; Claims 4, 13 and 26 have been canceled and new claim 35 has been added.
4. The objection to Claims 1, 12 and 23 is withdrawn in view of Applicants' amendments to these claims to remove the subject matter that is vague and unclear.

Response to Arguments

4. Applicants' arguments in the Remarks section of the amendment have been fully considered but are not persuasive. The following is an examiner's response to Applicants' arguments.

Claims 1, 12 and 23

Applicants' arguments:

Amended independent claim 1 recites, among other features, a "memory storing a first object, a second object, and a third object . . . the third object corresponding to content information for display in the EPG," and "a processor configured to generate the interactive EPG by combining the first object, the second object and the third object."

The Action alleges Martino discloses these features. Specifically, the Action points to the user interface as the first object, the software module to display the search world or the profile world as the second object, and the software module to display the overview world as the third object. See Office Action. Martino discloses a user interface that generates three "environments" or "worlds". In particular, a "search world", a "profiling world", and an "overview world" are described. See Martino, col. 2, lls. 21-22. While three worlds are named, Martino fails to teach or disclose the first second and third objects, and in particular, the third object, as recited in claim.

In the search world of Martino, the user enters, saves, and edits filtering and sorting criteria. See Martino, col. 2, lls. 22-25. In the profiling world, the user generates and modifies user profiles. See Martino, col. 2, lls. 25-27. However, the third "overview world" relied on in the office action is merely an interface for presenting results of the other previously mentioned "worlds." As explicitly recited in Martino, the "overview world" presents the results of the filtering and sorting criteria in a visually clear and simple way. Preferably, a three-dimensional animation is shown

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with three-dimensional tokens representing each record." Martino, col. 5, lls. 22-25; see also Martino, col 5, lls. 25-37.

Thus, the third environment or world relied on in the Office Action is a manner of presenting information not "a third object corresponding to content information for display in the EPG" as recited. In fact, as is evident by that discussed in Martino and the corresponding figures, the third overview world, or more properly the overview "environment" or interface, is completely distinct and unrelated to generation of an EPG in Martino. Accordingly, Martino does not teach or suggest a processor configured to generate an interactive EPG by combining the first object, the second object and the third object as recited in claim 1.

Examiner's response:

The examiner respectfully disagrees with Applicants' assertion that the overview world of Marino is merely an interface for presenting results of the other two worlds: search and profiling and that the overview world is a manner of presenting information and not "a third object corresponding to content information for display in the EPG" as recited in the claim. The office action interprets the first object as being the software module that present three-dimensional visual graphics to facilitate the organization of information (4:31-45; layout of the EPG), the second being the software module to display a search and/or profile world and the third object being the software module to display the overview world which is the results of the search (see at least 2:27-29). It should be noted that the claim language calls for "a third object **corresponding to** content information for display in the EPG" (emphasis added). The claimed third object is thus construed **not** to be the content information for display itself but rather a software module that corresponds (or relates) to the content information for display (e.g., the displaying of the results of the search). In view of this interpretation, the first, second and third objects all relates to how to display or present the content information to the user (i.e., to configure to generate an interactive EPG by combining the first, second and third object as recited and argued by Applicants).

Applicants' arguments

Claim 1 also recites, "the interactive component includes localized content." The Action contends that the localized content is suggested by Martino in the form of targeted advertising, an "alleged" feature of the described MbTV. Specifically, the Action contends that localized content is taught or suggested because "a viewer in the West Coast would most likely prefer to view television programs of his/her local viewing area rather than those broadcast on the East Coast." However, assuming without admitting this assertion, Martino fails to teach or suggest an

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interactive component including localized content. Furthermore, the article applied in the Action regarding MbTV merely discloses a device that learns its viewers' television watching tastes without any user intervention and can recommend, record and delete desirable programs based on the device's passive observance of viewers' tastes. Thus, the applied article reference fails to teach or suggest an interactive component including localized content as recited in claim 1.

Examiner's response

Contrary to Applicants' assertion that Marino fails to teach or suggest "an interactive content including localized content" because the MbTV's learning process is performed without any user intervention, it should be noted as described in 3:37-40, the process does include some actions from a user who handles program suggestions.

Claims 2-5, 8-9, and 11

Applicants' arguments

For at least these reasons, claim 1 is patentably distinct over Martino. Claims 2-5, 8-9, and 11 depend from claim 1 and are patentably distinct for at least these reasons.

Examiner's response

For the features recited in each of these dependent claims, see Office action.

Claim 12 and 23

Applicants' arguments

Amended independent claims 12 and 23 include similar features to those discussed with respect to claim 1. Accordingly, claims 12 and 23 are patentably distinct over Martino for at least the same reasons as claim 1.

Examiner's response

See above discussion.

Claims 13-16, 20, 22, 24-27

Applicants' arguments

Claims 13-16, 20, 22, 24-27 depend directly or indirectly from claim 12 or 23 and are therefore patentably distinct over Martino for at least the reasons discussed with respect to their respective base claims and in light of further patentable features recited therein.

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Examiner's response

For the features recited in each of these dependent claims, see Office action.

Claim Rejections under 35 U.S.C. § 103(a)

Applicants' arguments

Claims 7, 10, 18, 19, 21, 22 and 28-34 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Martino in view of Finseth et al. (U.S. Patent No. 6, 754,906, hereinafter "Finseth"). This rejection is respectfully traversed for at least the following reasons.

As discussed above with respect to independent claims 1, 12, and 23, Martino fails to disclose all the features of those claims. Finseth fails to cure the deficiencies of Martino. Accordingly, Claims 1, 12, and 23 are patentably distinct over Martino in view of Finseth. Claims 7, 10, 18, 19, 21, 22, and 28-24 depend from independent claims 1, 12, or 23, and are allowable over Martino in view of Finseth for at least the reasons discussed with respect to their ultimate base claim and in light of the further patentable features recited therein.

Examiner's response

Since Claims 7, 10, 18, 19, 21, 22 and 28-34 incorporate the features of the respective base claim, the same response discussed in conjunction with the base claims is thus applicable to these claims.

According to the foregoing discussion, the rejection of Claims 1-3, 5, 7-12, 14-16, 18-25, 27-31 and 33-34 are maintained.

Claim Rejections – 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejection under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, or

(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for the purposes of this subsection of an application filed in the United States and was published under Article 21(2) of such treaty in the English language.

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6. Claims 1-3, 5, 8-9, 11-12, 14-16, 20, 22-25, 27 and 35 are rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,662,177 to Martino et al. (“Martino”).

It should be noted that hereinafter the use of the clause “see at least” should be interpreted that the cited portions that follow the clause are not the only portions that are considered to be relevant. Should Applicant find that the cited portions are not relevant, other portions of the disclosure of the prior art reference will be provided as additional evidence and/or context to the relevancy of the previously cited portions. Since the evidence is from the same reference, the introduction of the additional evidence in response to Applicant’s arguments should not therefore be considered to be that of new grounds of rejection.

Claim 1

Martino discloses *a system, comprising:*

a memory (see at least FIG. 1, memory inside the computer 240) storing a first object (see at least 4:31-45), a second object, the second object, and a third object (see at least 2:21-29; the claimed third object is being interpreted as the software module to display the overview world), wherein the first object further defines a position of the content information to be displayed in the interactive EPG (see at least 2:35-39), configured to define an interactive component for display in an interactive electronic programming guide (EPG), the interactive component including localized content (see at least 2:6 – 4:30; e.g., the claimed second object is interpreted as being the software module to display the search world or the profile world) and the third object (see at least 2:21-29; the claimed third object is being interpreted as the software module to display the overview world), wherein the first object further defines a position of the content information to be displayed in the interactive EPG (see at least 2:35-39) corresponding to content information for display in the EPG; and

a processor (see at least FIG. 1, CPU inside the computer 240) configured to generate the interactive EPG by combining the first object, the second object (see at least FIGs. 14-17) and the third object (see at least 2:21-29; the claimed third object is being interpreted as the software module to display the overview world), wherein a layout of the interactive EPG is defined by the first object (see at least 2:35-39).

It is noted that the feature “localized content” is deemed inherent to Martino because a user in San Francisco, CA may not receive the same television programs as one

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in Alexandria, VA notwithstanding they are affiliated to the same television network, e.g., CBS in FIG. 8.

Claim 12

Claim 12 is a method claim that corresponds to Claim 1. Therefore, Claim 12 is rejected for the same reasons as discussed in Claim 1.

Claim 23

Claim 12 is an apparatus claim (i.e., *a machine-readable storage medium tangibly embodying a sequence of instructions executable by a processor*) that corresponds to Claim 1. Therefore, Claim 23 is rejected for the same reasons as discussed in Claim 1.

Claims 2, 14 and 24

Rejections of base claims 1, 12 and 23, respectively are incorporated. Martino further discloses *wherein the system comprises a set-top box, a television, or a VCR* (see at least FIG. 1, devices 230, 240; 9:14-15).

Claims 3 and 25

Rejections of base claims 1 and 23, respectively are incorporated. Martino further discloses *wherein the system includes a plurality of drivers, one of the drivers communicating with a separate unit to replenish programming information* (see at least 6:50 – 7:54).

Claim 4 (canceled)

Claim 15

The rejection of base claim 12 and 23 is incorporated. Martino further discloses *wherein the memory further stores a third object corresponding to content information to be displayed in the EPG, and wherein the processor is configured to generate the interactive EPG by further combining the first and second objects with the third object* (see at least 2:21-29; the claimed

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third object is being interpreted as the software module to display the overview world), *wherein the first object further defines a position of the content information to be displayed in the interactive EPG* (see at least 2:35-39).

Claims 5, 16 and 27

Rejections of base claims 1, 12 & 23 and intervening claims 4; 13, 14 & 24, 26, respectively are incorporated. Martino further discloses *wherein the third object includes at least one of a schedule times, channel identification and a title* (see at least FIGs. 4-17, wherein in FIG. 4, e.g., Day, Time, Channel, Keyword).

Claim 8

The rejection of base claim 1 is incorporated. Martino further discloses wherein the first object is selected from a plurality of world objects based on a selected type of programming, wherein each of the plurality of world objects defines a different EPG layout (see at least 2:21 – 3:14; 7:55-65; note that the claimed “selected type of programming” is equated with Martino’s search, profile or overview and the claimed “different EPG layout” is equated with the different types of EPG layout shown respectively in FIG. 6 – EPG with Search, FIG. 7 – EPG with Profile, and FIG. 8 – EPG with Overview).

Claim 9

Rejections of base claim 1 and intervening claim 8 are incorporated. Martino further discloses *wherein the first object defines a virtual world and a subset of the virtual world is displayed as a matrix of rectangular boxes containing current program information* (see at least FIG. 10).

Claim 11

The rejections of base claim 1 is incorporated. Martino further discloses *a user interface configured to receive user interaction with the localized content of the interactive EPG* (see at least 2:21 – 3:15).

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Claim 13 (canceled)

Claim 20

The rejection of base claim 12 is incorporated. Martino further discloses *wherein the first object defines a virtual world and wherein a subset of the virtual world is displayed as a matrix of rectangular boxes containing current program information* (see at least FIG. 10).

Claim 22

The rejection of base claim 12 is incorporated. Martino further discloses *further comprising generating a user interface coupled to the EPG and configured to receive user interaction with the localized interactive component* (see at least 2:21 – 3:15).

Claim 26 (canceled)

Claim 35

The rejection of base claim 1 is incorporated. Martino further discloses *wherein the interactive component is based on the content information displayed in the EPG* (see at least 2:21-49).

Claim Rejections – 35 USC § 103

7. The following is a quotation of the 35 U.S.C. § 103(a) which form the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 7, 10, 18-19, 21-22 and 28-34 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Martino, as applied to the corresponding base and intervening claims, in view of U.S. Patent No. 6,754,906 to Finseth et al. (“Finseth”).

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Claim 7

The rejections of base claim 1 and intervening claim 4 are incorporated. Martino does not specifically disclose *wherein the second object is configured to provide non-EPG e-commerce interactivity*. However, in an analogous art, Finseth teaches displaying a Main Menu, which provides a user interface for purchasing items through an electronic catalog (see at least FIG. 9). It would have been obvious to a person having ordinary skill in the art at the time the invention was made to combine Finseth with Martino. One of ordinary skill in the art would have been motivated to implement such a combination for the sake of providing user with e-commerce capabilities to Martino.

Claim 10

The rejections of base claim 1 and intervening claims 4 & 7 are incorporated. Martino does not specifically disclose *wherein the second object is received in real time*. However, this feature is deemed inherent to Finseth because the electronic catalog (see at least 20:27-29) disclosed in Finseth should be updated in real-time to reflect the inventory of items in stock so that when a user searches the electronic catalog for an purchasing item and /or places an order, the item(s) is/are available or shown to be available in the near future. Without the real-time operating capability, e-commerce would be inefficient and the sales company would lose credibility and business very quickly.

Claims 18 and 28

Pursuant to Claim 18, the rejection of base claim 12 is incorporated.

Pursuant to Claim 28, the rejection of base claim 23 is incorporated.

Martino does not specifically disclose *wherein the second object is a non-EPG e-commerce objects*. However, in an analogous art, Finseth teaches software module to display a Main Menu, which provides a user interface for purchasing items through an electronic catalog (see at least FIG. 9). It would have been obvious to a person having ordinary skill in the art at the time the invention was made to combine Finseth with Martino. One of ordinary skill in the art would have been motivated to implement such a combination for the sake of providing user with e-commerce capabilities to Martino.

Claims 19 and 29

Rejections of base claims 12 & 23 and intervening claims 13-18 & 24-28 are respectively incorporated. Martino further discloses *wherein the first object is selected from a plurality of world objects based on selected programming content* (2:21 – 3:14; 5:22-43; 7:55-65; see note in Claim 8).

Claim 30

The rejection of base claim 23 and intervening claims 24, 26-29 are incorporated. Martino further discloses *wherein the first object defines a virtual world and wherein a subset of the virtual world is displayed as a matrix of rectangular boxes containing current program information* (see at least FIG. 10).

Claims 21 and 33

Pursuant to Claim 21, rejections of base claim 12 and intervening claim 18 are incorporated.

Pursuant to Claim 33, the rejection of base claim 23 is incorporated.

Martino does not specifically disclose *receiving the second object in real time*. However, this feature is deemed inherent to Finseth because the electronic catalog (see at least 20:27-29) disclosed in Finseth should be updated in real-time to reflect the inventory of items in stock so that when a user places an order, the item(s) is/are available or shown to be available in the near future. Without the real-time operating capability, e-commerce would be inefficient and the sales company would lose credibility and business very quickly.

Claim 34

The rejections of base claim 23 and intervening claim 33 are incorporated. Martino further discloses *further comprising generating a user interface coupled to the EPG and configured to receive user interaction with the localized interactive component* (see at least 2:21 – 3:15).

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Claim 31

Rejections of base claim 23 and intervening claims 24, 26-30 are incorporated. Martino further discloses *wherein the first object is user-selected from a plurality of world objects, each of the plurality of world objects defining a different layout for displaying the programming information* (see at least 2:21 – 3:15, 5:22-43, 7:55-65; note that the claimed “different EPG layout” is equated with the different types of EPG layout shown respectively in FIG. 6 – EPG with Search, FIG. 7 – EPG with Profile, and FIG. 8 -- EPG).

Conclusion

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hoang-Vu “Antony” Nguyen-Ba whose telephone number is (571) 272-3701. The examiner can normally be reached on Monday-Friday from 9:00 am to 5:30 pm.

If attempts to reach the examiner are unsuccessful, the examiner’s supervisor, John Miller can be reached at (571) 272-7353.

The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

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Any inquiry of a general nature or relating to the status of this application should be directed to the TC 2400 Group receptionist (571) 272-2400.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at (866) 217-9197 (toll-free).

/Hoang-Vu Antony Nguyen-Ba/

Primary Examiner, Art Unit 2421

January 20, 2009